

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CRIMINAL WRIT PETITION NO.2625 OF 2004

Mrs. Seema Manik Patil
Age 32 years, Occ: Housewife,
R/a Sukhshanti Building,
Terrace Flat, Near Telephone
Exchange, Nilegaon,
Nallasopara (W),
District: Thane.

.... Petitioner

- Versus -

1. Shri Jaichandra Kate
Deputy Superintendent of
Police, State CID, Konkan
Bhavan, Navi Mumbai.
2. Shri C.G. Kamble
Inspector, State CID,
Thane Squad, Konkan
Bhavan, Navi Mumbai.
3. Shri Pinak Pani Prasad
Sharma, Special Inspector
General of Police, Crime
Investigation Department,
Maharashtra State, Pune.

4. The State of Maharashtra Respondents

Sarvasri A.P. Mundargi with M.S. Mohite
for the Petitioner.

Shri I.S. Thakur, Addl. Public Prosecutor,
for the Respondents.

CORAM: R.M.S. KHANDEPARKAR &
P.V. KAKADE, JJ.

DATED: MAY 04, 2005

JUDGMENT (Per R.M.S.Khandeparkar, J.):

1. Heard. Rule. By consent, the rule is made
returnable forthwith.

2. The petitioner seeks to quash the order dated 8-10-2004 whereby the Special Inspector General of Police, Crime Investigation Department, State of Maharashtra had accorded sanction to apply the provisions of the Maharashtra Control of Organised Crime Act, 1999, hereinafter referred to as "the MCOC Act" in respect of the offence registered at the Nallasopara police station vide C.R. No.I-178/2002 and further to restrain the respondents from taking any action against the petitioner in connection with the said C.R. No.I-178/2002.

3. Few facts relevant for the decision are that on 19-6-2002 one Navleen Kumar was found murdered on the terrace of the building of the petitioner, situated at Nallasopara, District Thane in respect of which the said FIR No.I-178/2002 came to be registered. In the course of the investigation, it appears, the involvement of the petitioner in the offence in the nature of harbouring the offenders during the relevant time was revealed and consequently the investigating agency approached the competent authority under the MCOC Act for necessary sanction for recording of the FIR under the MCOC Act against the petitioner and the same was granted by the impugned order dated 8-10-2004. Hence the present petition.

4. It is the contention on behalf of the petitioner that in the chargesheet there is not even an iota of evidence which could even remotely suggest that the petitioner had knowingly helped the assailants or the conspirators in the alleged crime. It is her contention that she has been falsely named as accused only because she is the wife of the accused Manik Patil. On the other hand, it is the case of the respondents that the investigation reveals the involvement of the petitioner in the nature of harbouring of the assailants in the said crime and therefore there is no case for interference in the impugned order or to grant the relief asked for.

5. Perusal of the records relating to the investigation proceedings and more particularly the statements of Prashant Vasudeo Gawas, Sudhakar Damodar Gavad and Ananta Manohar Haldankar apparently lend support to the contention on behalf of the respondents. The facts revealed to the investigating agency by the said witnesses evidently disclose that the petitioner collects the rent in relation to the building in question and also manages the cable network business of her husband who is the accused in relation to the offence in question, namely, Manik Anant Patil. On the dates of hearing of the matter relating to her husband

in the Court, the petitioner and one Ganesh Bhiku Patil used to visit the Court in order to meet the said Manik Patil. Prior to the murder of Smt. Navleen Kumar and approximately from 21-5-2002, two persons had come to reside, in room No.3 of the said building, being the guests of Manik Anant Patil. The said two persons were brought to the said premises by Ganesh Bhiku Patil, and Prashant Gawas was told to serve food and tea to those persons. Since the time of the murder of Navleen Kumar, neither those persons were seen in the said room nor anybody was seen carrying food or tea to the said premises. The hotel boy from Samarth Hotel also at times used to serve the food to those two persons. On 21-5-2002 Ganesh in the presence of Sudhakar Gavad told Prashant and Narendra to clean the said room. After cleaning the said room, both Prashant and Narendra had carried bedding and two boxes full of clothes from the said room to the cable T.V. office and those two boxes were carried by Sudhakar Gavad to the chicken shop of Ganesh Patil at the instance of the latter. The keys of the room in the Gangotri building always remained in the possession of the petitioner and the two persons were occupying the room No.3 with the permission of the petitioner and her husband Manik Patil. The witness Prashant Vasudeo Gawas was employed with the petitioner and her husband Manik Patil. The said witness has stated that about a month prior to the murder of Smt.

Navleen Kumar, one Samir Ansari and another person by name Sanju had been occupying the room No.3 on the first floor of the Gangotri building of the petitioner. Ganesh Patil has a chicken centre and is closely related to the petitioner and the two persons occupying the room No.3 are the persons of Manik Patil and therefore they were being provided with tea, food, clothes etc. The expenditure in that regard was incurred by Ganesh Patil and the petitioner. The tea used to be served from Amit tea stall and the expenditure in that regard also was being made by the petitioner. The food was carried to those persons from Samarth Hotel. Both the hotels were instructed by Ganesh Patil to provide tea and food and accordingly they were supplying the same which was being carried by the witness Prashant or the hotel boy. On one occasion, at the instance of Ganesh Patil, the liquor and beer were also served to those persons from the Hamali. From the date of the murder of Navleen Kumar, those two persons are not residing in the said room and no tea or food has been carried to the said room from that day. The petitioner had also provided the beddings to those persons and after they had left the premises, on instructions from Ganesh Patil, the same was carried to the petitioner. It was the petitioner who had asked the witness to carry one bedding, two bed covers and two pillows for those persons in the said room.

6. The above facts narrated by the witnesses prima facie disclose the fact that the persons accused of having murdered Smt. Navleen Kumar were allowed to occupy the premises of the petitioner and they were even provided with food and eatables and clothes by the petitioner. They were occupying the said premises as the persons of the group of the petitioner and her husband Manik Patil. Obviously therefore, the materials prima facie disclose the acts of harbouring the criminals by the petitioner and therefore the impugned order allowing the recording of the FIR in terms of the provisions of the MCOC Act for harbouring the criminals cannot be found fault with. Whether the petitioner was doing it with the knowledge about the murder of Navleen Kumar or not is a matter to be decided on the basis of the evidence to be led in the case.

7. Once the involvement of the petitioner in the alleged offence, in one way or the other, is prima facie established, based on the materials on record, the question of quashing of the said order or directing the respondents not to take action against the petitioner in pursuance of the said FIR does not arise at all. Hence, the petition fails and is hereby dismissed. The rule is discharged with no order as to costs.

[7]

(R.M.S. Khandeparkar, J.)

(P.V. Kakade, J.)